

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ZACHARY R. WILLIAMS,	)	CASE NO. _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b>NOTICE OF REMOVAL</b>
	)	
AVERITT EXPRESS, and VERNA	)	
BAZILE, RUSSELL STOVER CANDIES,	)	
LLC,	)	
	)	
Defendants.	)	

TO: Matthew A. Lathrop  
LAW OFFICE OF MATTHEW A. LATHROP, PC, LLO  
2215 Harney Street, Suite 200  
Omaha, NE 68102

Defendants Averitt Express, Inc. and Verna Bazile (Defendants) hereby file this Notice of Removal, pursuant to 28 U.S.C. § 1441(a) *et seq.* In support of this Notice, the Defendants state as follows:

1. Pursuant to 28 U.S.C. § 1446(b), the Defendants timely have filed this Notice “within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading. . . .” The Plaintiff, Zachary R. Williams, filed this Complaint against the Defendants in the District Court of Douglas County on November 5, 2015. On November 25, 2015, Defendant Averitt Express, Inc. received by mail a copy of the Complaint in the lawsuit. (Defendant Verna Bazile, the truck driver in this accident, had been served earlier.)
2. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached “a copy of all process, pleadings, and orders served upon [the] defendants” in the lawsuit filed in the District Court of Douglas County, Nebraska.
3. Pursuant to 28 U.S.C. § 1441(a), this case is appropriate for removal, as the United States District Court for the District of Nebraska has original jurisdiction. Pursuant to 28 U.S.C. § 1332, the United States District Court for the District of Nebraska has diversity jurisdiction over the claims asserted in the civil complaint filed in the District Court of Douglas

County, Nebraska. Jurisdiction under 28 U.S.C. § 1332(a) requires that the parties are citizens of different states and that the amount in controversy is greater than \$75,000.

- a. According to the Complaint filed in the District Court of Douglas County, Nebraska, the Plaintiff is a citizen and resident of the state of Nebraska. (Complaint, ¶ 1.)
- b. Defendant Averitt Express, Inc. is a Tennessee corporation with its principal place of business in the state of Tennessee.
- c. Defendant Verna Bazile is a resident of the state of Texas.
- d. Defendant Russell Stover Candies, LLC is a Missouri corporation. (Complaint, ¶ 5; Russell Stover Answer, ¶ 1.)
- e. In its Answer, purported subrogee Defendant Russell Stover Candies, LLC alleges it is subrogated in the amount of \$115,752.59 in worker's compensation benefits it paid to the Plaintiff due to the injury the Plaintiff allegedly suffered in the accident that is the subject of this lawsuit. (Russell Stover Answer, ¶ 3.)
- f. The Plaintiff also is claiming noneconomic damages and additional economic damages in the form of: medical expenses, past and future; lost income past and future; lost earning capacity; past and future physical pain and emotional suffering, anxiety, worry, stress, embarrassment, humiliation and loss of enjoyment of life. (Complaint, page 7.)

4. Pursuant to 28 U.S.C. § 1441(a), this action is properly removable to the United States District Court for the District of Nebraska, as it is "the district court for the United States for the district and division embracing the place where such action is pending."

5. Concurrently with the filing of this Notice of Removal, written notice of the filing is being mailed to the attorney for the Plaintiff and a copy of this Notice is being filed with the clerk of the District Court of Douglas County, Nebraska, pursuant to 28 U.S.C. § 1446(d).

6. All Defendants, including subrogee Russell Stover Candies LLC, agree to this Removal.

7. Defendants Averitt Express, Inc. and Verna Bazile request trial be held in Omaha.

WHEREFORE, Defendants Averitt Express, Inc. and Verna Bazile request that this matter be removed from the District Court of Douglas County, Nebraska to the United States District Court for the District of Nebraska.

DATED this 24<sup>th</sup> day of December, 2015.

AVERITT EXPRESS and VERA BAZILE,  
Defendants

BY:

/s/ Matthew F. Heffron  
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Attorney for the Defendants

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Removal was sent by regular United States first class mail, postage prepaid, to the following on this 24<sup>th</sup> day of December, 2015.

Matthew A. Lathrop  
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/s/ Matthew F. Heffron  
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